

BEFORE THE TENNESSEE STATE BOARD OF EQUALIZATION

IN RE: Philip K. Mabe)
Dist. 4, Map 119, Control Map 119, Parcel 15,) Claiborne County
S.I. 001)
Farm Property)
Tax Year 2007)

INITIAL DECISION AND ORDER

Statement of the Case

The subject property is presently valued as follows:

<u>LAND VALUE</u>	<u>IMPROVEMENT VALUE</u>	<u>TOTAL VALUE</u>	<u>ASSESSMENT</u>
\$10,000	\$132,200	\$142,200	\$56,880

An appeal has been filed on behalf of the property owner with the State Board of Equalization. The undersigned administrative judge conducted a hearing in this matter on September 19, 2007 in Tazewell, Tennessee. The taxpayer, Philip K. Mabe, represented himself and was assisted by his mother, Aileen Craft. The assessor of property was represented by staff member Judy Myers, and Ryan Cavanah, RES, an appraiser with the Division of Property Assessments.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

Subject property consists of 1 acre of a 100 acre farm improved with three mini storage buildings.¹ Subject property is located on Lone Mountain Road in Tazewell, Tennessee approximately 850 feet from the entrance to Woodlake Golf Club.

The taxpayer contended that subject property should be valued at \$130,000 as it was prior to the 2007 countywide reappraisal program.² In support of this position, the taxpayer argued that the 2007 reappraisal program caused the appraisal of subject property to increase excessively. In addition, the taxpayer asserted that the current appraisal of subject land does not achieve equalization because it has been appraised at more per acre than similar parcels in the area. Finally, the taxpayer introduced various documents into evidence to show that he can construct the mini storage units for significantly less than the assessor's estimated replacement cost.

The assessor contended that subject property should be valued at \$176,700. In support of this position, the testimony and written analysis of Ryan Cavanah, RES was offered into evidence. Mr. Cavanah prepared cost and income approaches which he asserted support value indications of \$162,155 and \$176,713 respectively. Mr. Cavanah placed

¹ The other 99 acres have been separately assessed as parcel 15, special interest 000.

² Claiborne County last reappraised in 2002. Normally, the same appraisal remains in effect from 2002-2006.

greatest weight on the income approach due to the income producing nature of subject property.

The basis of valuation as stated in Tennessee Code Annotated Section 67-5-601(a) is that "[t]he value of all property shall be ascertained from the evidence of its sound, intrinsic and immediate value, for purposes of sale between a willing seller and a willing buyer without consideration of speculative values . . ."

General appraisal principles require that the market, cost and income approaches to value be used whenever possible. Appraisal Institute, *The Appraisal of Real Estate* at 50 and 62. (12th ed. 2001). However, certain approaches to value may be more meaningful than others with respect to a specific type of property and such is noted in the correlation of value indicators to determine the final value estimate. The value indicators must be judged in three categories: (1) the amount and reliability of the data collected in each approach; (2) the inherent strengths and weaknesses of each approach; and (3) the relevance of each approach to the subject of the appraisal. *Id.* at 597-603.

The value to be determined in the present case is market value. A generally accepted definition of market value for ad valorem tax purposes is that it is the most probable price expressed in terms of money that a property would bring if exposed for sale in the open market in an arm's length transaction between a willing seller and a willing buyer, both of whom are knowledgeable concerning all the uses to which it is adapted and for which it is capable of being used. *Id.* at 21-22.

After having reviewed all the evidence in the case, the administrative judge finds that the subject property should remain valued at \$142,200 based upon the presumption of correctness attaching to the decision of the Claiborne County Board of Equalization.

Since the taxpayer is appealing from the determination of the Claiborne County Board of Equalization, the burden of proof is on the taxpayer. See State Board of Equalization Rule 0600-1-.11(1) and *Big Fork Mining Company v. Tennessee Water Quality Control Board*, 620 S.W.2d 515 (Tenn. App. 1981).

The administrative judge finds that the fair market value of subject property as of January 1, 2007 constitutes the relevant issue. The administrative judge finds that the Assessment Appeals Commission has repeatedly rejected arguments based upon the amount by which an appraisal has increased as a consequence of reappraisal. For example, the Commission rejected such an argument in *E.B. Kissell, Jr.* (Shelby County, Tax Years 1991 and 1992) reasoning in pertinent part as follows:

The rate of increase in the assessment of the subject property since the last reappraisal or even last year may be alarming but is not evidence that the value is wrong. It is

conceivable that values may change dramatically for some properties, even over so short of time as a year. . .

Final Decision and Order at 2.

The administrative judge finds that the taxpayer's equalization argument must be rejected. The administrative judge finds that the State Board of Equalization has historically adhered to a market value standard when setting values for property tax purposes. See *Appeals of Laurel Hills Apartments, et al.* (Davidson County, Tax Years 1981 and 1982, Final Decision and Order, April 10, 1984). Under this theory, an owner of property is entitled to "equalization" of its demonstrated market value by a ratio which reflects the overall level of appraisal in the jurisdiction for the tax year in controversy.³ The State Board has repeatedly refused to accept the *appraised* values of purportedly comparable properties as sufficient proof of the *market* value of a property under appeal. For example, in *Stella L. Swope* (Davidson County, Tax Years 1993 and 1994), the Assessment Appeals Commission rejected such an argument reasoning as follows:

The assessor's recorded values for other properties may suffer from errors just as Ms. Swope has alleged for her assessment, and therefore the recorded values cannot be assumed to prove market value.

Final Decision and Order at 2.

The administrative judge finds Mr. Mabe and Ms. Craft testified they essentially serve the function of the general contractor and do much of the labor when constructing a building. Accordingly, the administrative judge finds that the taxpayer's historical construction costs are not indicative of market costs.

The administrative judge finds that just as the taxpayer has the burden of proof to support a reduction in value, the assessor has the same burden when seeking a higher value. Respectfully, the administrative judge finds that although Mr. Cavanah's analysis was most thorough and supports the appraisal of subject property, additional evidence is necessary to support a higher value.

Most importantly, the administrative judge finds that Mr. Cavanah did not have an opportunity to review subject property's operating history before preparing his income approach. As noted at the hearing, the assessor should file an appropriate motion if the parties are unable to agree on a request for such information through the discovery process.

ORDER

It is therefore ORDERED that the following value and assessment be adopted for tax year 2007:

³ See Tenn. Code Ann. §§ 67-5-1604-1606. Usually, in a year of reappraisal – whose very purpose is to appraise all properties in the taxing jurisdiction at their fair market values – the appraisal ratio is 1.0000 (100%). That is the situation here.

<u>LAND VALUE</u>	<u>IMPROVEMENT VALUE</u>	<u>TOTAL VALUE</u>	<u>ASSESSMENT</u>
\$10,000	\$132,200	\$142,200	\$56,880


It is FURTHER ORDERED that any applicable hearing costs be assessed pursuant to Tenn. Code Ann. § 67-5-1501(d) and State Board of Equalization Rule 0600-1-.17.

Pursuant to the Uniform Administrative Procedures Act, Tenn. Code Ann. §§ 4-5-301—325, Tenn. Code Ann. § 67-5-1501, and the Rules of Contested Case Procedure of the State Board of Equalization, the parties are advised of the following remedies:

1. A party may appeal this decision and order to the Assessment Appeals Commission pursuant to Tenn. Code Ann. § 67-5-1501 and Rule 0600-1-.12 of the Contested Case Procedures of the State Board of Equalization. Tennessee Code Annotated § 67-5-1501(c) provides that an appeal **“must be filed within thirty (30) days from the date the initial decision is sent.”** Rule 0600-1-.12 of the Contested Case Procedures of the State Board of Equalization provides that the appeal be filed with the Executive Secretary of the State Board and that the appeal **“identify the allegedly erroneous finding(s) of fact and/or conclusion(s) of law in the initial order”**; or
2. A party may petition for reconsideration of this decision and order pursuant to Tenn. Code Ann. § 4-5-317 within fifteen (15) days of the entry of the order. The petition for reconsideration must state the specific grounds upon which relief is requested. The filing of a petition for reconsideration is not a prerequisite for seeking administrative or judicial review; or
3. A party may petition for a stay of effectiveness of this decision and order pursuant to Tenn. Code Ann. § 4-5-316 within seven (7) days of the entry of the order.

This order does not become final until an official certificate is issued by the Assessment Appeals Commission. Official certificates are normally issued seventy-five (75) days after the entry of the initial decision and order if no party has appealed.

ENTERED this 27th day of September, 2007.


 MARK J. MINSKY
 ADMINISTRATIVE JUDGE
 TENNESSEE DEPARTMENT OF STATE
 ADMINISTRATIVE PROCEDURES DIVISION

c: Mr. Philip Mabe
 Ms. Aileen S. Craft
 Kay Sandifer, Assessor of Property